



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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5/8/02

In re application of:

Nasmyth *et al.*

Appl. No. 09/308,109

102(e) Date: June 2, 1999

For: **Methods for Producing the Anaphase
Promoting Complex**

Art Unit: 1634

Examiner: Lu, F.

Atty. Docket: 0652.1880000/EKS/VSS

Reply To Restriction Requirement and Election of Species

Commissioner for Patents
Washington, D.C. 20231

Sir:

In reply to the Office Action dated April 3, 2002, Applicants hereby provisionally elect to prosecute the invention of Group II, represented by claims 22-29. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made with traverse. Group I is drawn to a method of screening for inhibitors of rapidly proliferating cells. Group II is drawn to the *same* method for inhibitors of rapidly proliferating cells, with the addition of steps to identify further elements that may be used in the abovementioned method. As a search conducted for Group II would *necessarily* encompass the same subject matter as a search conducted for Group I, Applicants assert that the search for both groups would not be an undue burden, and therefore should be examined in the same application (*see* M.P.E.P. § 803). Accordingly, Applicants respectfully request that the Restriction Requirement be withdrawn and that both groups be examined the captioned application.

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In reply to the further requirement for an election of species within the aforementioned Office Action, Applicants hereby provisionally elect the following species:

1. human APC, generic claims 14 and 17-29;
2. APC-11, generic claims 14-16, 18-24, and 26-29; and
3. yeast cell, generic claims 14-22, 25-29.

This Election of Species is made with traverse as searching for all species of the claims would not present an undue burden. A reasonable search for any APC subunit would encompass the remaining APC subunits. Similarly, a reasonable search for either the yeast or human version of APC or expression of APC in either human or yeast cells would also overlap to a degree that searching both species would not be an undue burden. Therefore, Applicants respectfully request that the Election of Species requirement be withdrawn.

Reconsideration and withdrawal of the Restriction Requirement and Election of Species, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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Date: May 3, 2002
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